

indicated that Applicant's "reply filed on 3/15/06 is not responsive to the prior Office Action . . . "

Applicant respectfully submits that the Examiner's assertion, in the Office Action, dated June 14, 2006, that Applicant's reply to the previous Office Action, dated December 14, 2005, is "not responsive", is in error and should be withdrawn. Applicant provides the following remarks in support of Applicant's position and request that the Office Action, dated June 14, 2006, be withdrawn and that the Examiner examine pending Claims 41-60 on the merits.

The Examiner issued an Election of Species Requirement in the Office Action, dated September 21, 2005, a copy of which is transmitted herewith. In the Office Action, dated September 21, 2005, the Examiner indicated that Claims 21, 23, 30, 33, and 34 were generic. Applicant respectfully submits that the then pending independent Claim 21 was directed to "A computer-implemented method". In response to the above-referenced Office Action and Election of Species Requirement, Applicant elected the Species of Claims 24, 25, 26, 27, and 28, drawn to receiving a response from the communication device. A copy of Applicant's Response To Election Of Species Requirement, dated September 24, 2005, is transmitted

herewith. The Examiner subsequently examined then pending Claims 21, 23, 24, 25, 26, 27, 28, 33, and 34 on the merits and issued the Office Action, dated December 14, 2005, which contained a Final Rejection of Claims 21, 23, 24, 25, 26, 27, 28, 33, and 34.

Following the Examiner's Final Rejection of the pending Claims 21, 23, 24, 25, 26, 27, 28, 33, and 34, Applicant, on March 10, 2006, filed a Request For Continued Examination (RCE) along with an Amendment to the Claims. Applicant cancelled the then pending Claims 21, 23, 24, 25, 26, 27, 28, 33, and 34 as well as the then withdrawn Claims 22, 29-32, and 35-40, and Applicant added new Claims 41-60. Pending independent Claim 41 is directed to "A computer-implemented method". To the best of Applicant's knowledge, information, and belief, the invention of Claim 21 and the invention of Claim 41, each of which are drawn to "A computer-implemented method", are drawn to the same class of invention, namely, "A computer-implemented method". As such, Applicant is not restricted to apparatus claims, as the Examiner asserts at page 2 of the Office Action, dated June 14, 2006.

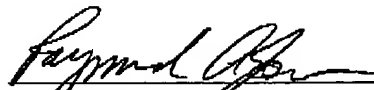
Applicant further notes that the Examiner's Office Action And Notice of Non-Responsive Reply To Prior Office

Action, filed June 14, 2006, appears to incorrectly rely on a previous paper, dated 1/5/05. As noted above, Applicant's pending Claims 21, 23, 24, 25, 26, 27, 28, 33, and 34, as of the issuance of the above-referenced Election of Species Requirement in the Office Action, dated September 21, 2005, were all drawn to "A computer-implemented method" and not to an "apparatus". Applicant respectfully submits that Claims 41-60, which were added in the Amendment and Response To Office Action filed in connection with the Request For Continued Examination, filed March 10, 2006, are all drawn to "A computer-implemented method". To the best of Applicant's knowledge, information, and belief, independent Claim 41 and Claims 41-60 which depend therefrom, and then pending independent Claim 21, and Claims 22-40 which depended therefrom, are drawn to the same class of invention, namely, "A computer-implemented method". For the foregoing reasons, Applicant respectfully submits that the Examiner's Office Action And Notice of Non-Responsive Reply To Prior Office Action, dated June 14, 2006, is in error and should be withdrawn.

In view of the foregoing, Applicant respectfully requests that the Office Action And Notice of Non-Responsive Reply To Prior Office Action, dated June 14, 2006, be

withdrawn and that the Examiner examine Claims 41-60 on the merits.

Respectfully Submitted,



Raymond A. Joao

Reg. No. 35,907

Encl.: - Copy of Office Action, dated September 21, 2005
- Copy of Applicant's Response To Election Of Species Requirement, dated September 24, 2005

June 16, 2006

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,981	10/15/2001	Raymond Anthony Joao	RJ220	4403

7590 09/21/2005

RAYMOND A. JOAO, ESQ.
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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT

PAPER NUMBER

3627

DATE MAILED 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	RECEIVED CENTRAL FAX CENTER JUN 16 2006
	09/977,981	JOAO	
	Examiner	Art Unit	
	Joseph A. Fischetti	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 21-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

U.S. Patent and Trademark Office
PTOL-326 (Rev. 7-05)

Office Action Summary

Part of Paper No./Mail Date 09162005

Application/Control Number: 09/977,981
Art Unit: 3627

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Applicant's amendment has introduced plural species requiring an election as follows:

DETAILED ACTION

This application contains claims directed to the following patentably distinct species of the claimed invention: The species are as follows:

Species of claims 24,25,26,27 and 28 drawn to receiving a response from the communication device;

Species of claims 31,32,36 and 38 drawn to a notification message generating steps;

Species of claims 22,29,35,37,39,40 drawn to a ticket option.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 21,23,30 33 ,34 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

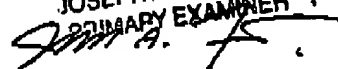
Application/Control Number: 09/977,981
Art Unit: 3627

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all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

JOSEPH A. FISCHETTI
PRIMARY EXAMINER


Joseph A. Fischetti
Primary Examiner
Art Unit 3627

09/24/2005 18:19 FAX 914 969 2992


RAYMOND A. JOAO

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SEP 24 2005

I hereby certify that this correspondence is being transmitted via facsimile transmission to the United States Patent and Trademark Office at 571-273-8300 on September 24, 2005.


Raymond A. Joao

RJ220

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : RAYMOND A. JOAO

SERIAL NO.: 09/977,981

FILED : OCTOBER 15, 2001

FOR : APPARATUS AND METHOD FOR SELLING A TICKET TO
AN EVENT AND/OR TO A PORTION OF AN EVENT OR
VENUE

EXAMINER : J. FISCHETTI

GROUP : 3627

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Sir:

This is a Response to the Election of Species Requirement, mailed September 21, 2005, in the above-identified application.

09/24/2005 18:19 FAX 914 969 2992

RAYMOND A. JOAO

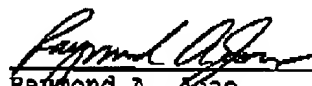
003/003

Applicant hereby elects the Species of Claims 24, 25, 26, 27, and 28, drawn to receiving a response from the communication device.

The Examiner has indicated that Claims 21, 23, 30, 33, and 34, are generic. Applicant, therefore, respectfully submits that Claims 21, 23, 24, 25, 26, 27, 28, 30, 33, and 34, are readable on the elected Species of Claims 24, 25, 26, 27, and 28.

Entry of this Response to the Election of Species Requirement, and examination of Claims 21, 23, 24, 25, 26, 27, 28, 30, 33, and 34 on the merits, is respectfully requested.

Respectfully Submitted,


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Reg. No. 35,907

September 24, 2005

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